

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

CENK UYGUR and JOHN WARD,

Plaintiffs,

v.

SOUTH CAROLINA; HENRY MCMASTER, in his official capacity as Governor of South Carolina; ALAN WILSON, in his official capacity as Attorney General of South Carolina; MARK HAMMOND, in his capacity as Secretary of State of South Carolina; SOUTH CAROLINA DEMOCRATIC PARTY; SOUTH CAROLINA STATE ELECTION COMMISSION, JOHN WELLS, and HOWARD M. KNAPP, in their official capacities as Chairman and Executive Director, respectively, of the South Carolina State Election Commission,

Defendants.

Civil Action No. 3:23-cv-6879-JFA

**RESPONSE OF DEFENDANTS SOUTH
CAROLINA ELECTION COMMISSION,
JOHN WELLS AND HOWARD M. KNAPP
TO PLAINTIFFS' MOTION TO
EXPEDITE AND MOTION TO
CONSOLIDATE**

Defendants South Carolina State Election Commission, John Wells and Howard M. Knapp, in their official capacity Chairman and Executive Director, respectively, of the State Election Commission (collectively "SEC Defendants") respond to Plaintiffs' Motion to Expedite (ECF No. 19) and Motion to Consolidate (ECF No. 20).

The SEC Defendants take the same position as Defendants Henry McMaster and Alan Wilson, in their official capacities as Governor and Attorney General of South Carolina, in their respective responses to the above-referenced motions. (ECF No. 22 and ECF No. 27 respectively). The SEC Defendants intend to respond to the Complaint (ECF No. 1) and Plaintiffs' Motion for Declaratory and Emergency Injunctive Relief (ECF No. 2) on or before Friday, January 5, 2024.

Additionally, the SEC Defendants oppose Plaintiffs’ Motion to Consolidate the Rule 65 hearing with any hearing on the merits because the SEC Defendants intend to argue that Plaintiffs’ claims against them should be dismissed without a trial under various theories. If the SEC Defendants’ motion is granted, they would not have to undergo the time and expense of a trial in this case. *See Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 482 (4th Cir. 2005) (“the entitlement conferred by the Eleventh Amendment is an *immunity from* suit rather than a mere defense to liability, and it is effectively lost if a case is erroneously permitted to go to trial” (cleaned up)). However, the SEC Defendants do not oppose the Court consolidating a hearing on their forthcoming Motion to Dismiss with a hearing on Plaintiffs’ Motion for Declaratory and Emergency Injunctive Relief.

Respectfully Submitted,

s/ Michael R. Burchstead

Michael R. Burchstead (Fed. Bar #10297)

M. Elizabeth Crum (Fed Bar #372)

BURR & FORMAN LLP

Post Office Box 11390

1221 Main Street, Suite 1800

Columbia, SC 29201

Telephone: (803) 799-9800

Facsimile: (803) 753-3278

*Attorneys for South Carolina Election Commission,
John Wells and Howard Knapp*

January 4, 2024
Columbia, South Carolina